

Testimony by Verlie M. Ruffin, Children's Ombudsman

HB 4050

Families, Seniors, and Human Services Committee

April 17, 2013

Good afternoon Madam Chairwoman and Members of the Committee.

My name is Verlie Ruffin and I am the Director/Ombudsman for the Office of Children's Ombudsman (OCO). Joining me today is Charlotte Smith, OCO Supervisor.

Among other duties, the OCO is responsible for investigating complaints about the handling of children's cases by the Department of Human Services and private child placing agencies with respect to children's protective services, foster care, adoption services and juvenile justice. Our investigations consist of reviewing agency actions to determine whether they complied with law and policies.

I am here today to testify on behalf of several amendments to the Children's Ombudsman Act (PA 204) as delineated in HB 4050. The Children's Ombudsman Act was strengthened by Ariana's law in 2005 and now several years later, amendments are needed. I am confident that the changes I am requesting will better equip our office in meeting the needs of the children and families involved in the child welfare system.

Charlotte and I will provide an overview of the amendments I am requesting as outlined in the attached document: "Summary of Proposed Changes to the Children's Ombudsman Act (COA), April 2013."

**Summary of Proposed Changes
To The Children's Ombudsman Act (COA)
April 2013**

Section 5a(d)

Currently the COA states that the Ombudsman shall "review each departmental death review team study in which a child's death may have resulted from child abuse or child neglect." The child death review team study does not exist and never has, so the OCO would like to strike the language.

Section 6

There is currently no statutory requirement that the OCO investigate cases where a child may have died as a result of possible child abuse or neglect. Although the OCO, on its own, has been conducting investigations, it is important to include specific language in the statute. The OCO believes this is in keeping with the intent of the 2005 amendments and has become an expected practice among the public and legislature.

Section 6c and Section 7(1) & 7(2)

References to investigating adoption attorneys were removed by the legislature in the 2005 amendments. Legally, the OCO cannot investigate any attorneys since that is the responsibility of the State Court Administrative Office and/or the Attorney Grievance Commission.

Section 6(D)

This section had a sunset provision of 1/3/2010. OCO would like to be able to have subpoena power. The DHS director suggested that the OCO should have this section returned to the statute.

Section 8(3)

The 2005 amendments to the OCO's statute included the authority to investigate juvenile delinquency cases. (See Section 5a). Juvenile delinquency is added here for consistency as were the words Management and Budget.

References to specific computer systems was deleted because the names of the systems used by DHS changes periodically. DHS will be phasing out SWSS and replacing it with a new system in 2013 and CIMS is no longer used.

Section 9(4)

This proposed amendment would allow the OCO to share the results of its investigation with officials handling a criminal case. Currently, the Ombudsman cannot release the results of an investigation to our complainant if there is an ongoing CPS or criminal investigation. The amendment would give the OCO the authority to release *the results* of its investigation to a complainant if law enforcement, local prosecutor, or DHS has indicated that either their investigation is closed or that the release of the Ombudsman's report will not interfere with their ongoing investigation.

OCO routinely contacts CPS to find out if there is an ongoing investigation. The OCO also instituted a procedure that requires contacting the local prosecuting attorney about a criminal case that involves the same children in a case the OCO has investigated. The purpose of the contact is to find out whether releasing the results of the OCO investigation would interfere with the criminal case or ongoing law enforcement investigation. Prosecuting attorneys have been open to informing the OCO of their decision and appreciate being contacted. However, an inherent problem is that the OCO cannot legally share the results of the OCO's investigation (whether DHS violated law, policy or procedure) with law enforcement or the prosecuting attorney. Before being able to make an informed decision about whether information obtained by the OCO would interfere with the criminal case, the prosecuting attorney or detective wants to know what information the OCO has.

If the OCO cannot share the results of its investigation with individuals handling the criminal case/investigation, the OCO complainant must wait until after the legal case has concluded (including any ensuing trial). The Ricky Holland case is an example where the OCO's investigation was completed but since the Holland's criminal trial was ongoing, it was months before the OCO could provide complainants with the results of the OCO's investigation. It was later determined that none of the information contained in the OCO's violation report was relevant to the criminal case.

Section 9(5)

This proposed amendment would require that the OCO receive notice from DHS or the prosecuting attorney prior to providing the complainant with the results of an OCO investigation.

All contact with the OCO is strictly confidential.

The OCO is not an emergency intervention service. If you have a concern that needs immediate attention, call your county Department of Human Services office or law enforcement.

How are complaints investigated?

If the OCO decides to open a case for investigation of your complaint, you will be notified by letter. The OCO will order a copy of the child's confidential DHS and/or private child-placing agency case file. An OCO investigator will then conduct an independent investigation of the complainant's issues by:

- Reviewing documents contained in the file (agency documents, court documents, medical records, etc.)

Mission Statement

The mission of the Office of the Children's Ombudsman is to assure the safety and well-being of Michigan's children in need of foster care, adoption and protective services and to promote public confidence in the child welfare system. This will be accomplished through independently investigating complaints, advocating for children, and recommending changes to improve law, policy and practice for the benefit of current and future generations.

- Interviewing caseworkers, supervisors and other professionals who have knowledge of the child case.
- Determining whether the agency's actions and decisions complied with laws and policies in the best interest of the child or children involved.

If the OCO cannot investigate your complaint, you will be provided with information that may assist you in resolving your concerns.

What happens after an investigation is completed?

All complainants will receive written notification of the results of OCO's investigation.

If the OCO finds that the actions of DHS or a private child-placing agency complied with law, rule or policy, the OCO will send a letter to you, DHS, and the child-placing agency

stating that the OCO has completed its investigation and closed your case.

If the OCO finds that an agency did not comply with law, rule, or policy, the OCO will notify DHS and the private-child placing agency of the results of the investigation. After the agency responds in writing to the OCO, you will receive a closing report that informs you of the results of the OCO's investigation, the agency's response, and any actions taken to address or correct the identified problem(s).

How do I get more information about the OCO?

- Contact our office and request a copy of our Annual Report. Each fiscal year, the Ombudsman submits an annual report to the Governor, Legislature, and DHS Director. The report contains statistical information about the work of the OCO and recommendations for changes in the child welfare system.
- Visit our website at www.michigan.gov/oco. You will find our annual reports in addition to helpful information for parents, relative caregivers, and foster parents.

**Dedicated to Serving
Michigan's Children**

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What is an Ombudsman?

Ombudsman (om-buds-man) is a Swedish term for an appointed government official who investigates citizen complaints, reports findings, and helps achieve solutions.

What is the Office of Children's Ombudsman?

The Office of Children's Ombudsman (OCO) is an independent state agency created by Public Act 204 of 1994 (the Children's Ombudsman Act.) The Children's Ombudsman is appointed by the Governor with the advice and consent of the Michigan Senate. The OCO staff consists of a multi-disciplinary team of professionals.

What does the OCO do?

The OCO has the legal authority to:

- Independently investigate complaints about children involved with protective services, foster care, adoption services, and juvenile justice.
- Determine if an action or decision was made according to the laws, rules and policies governing the Department of Human Services (DHS) and private

child placing-agencies.

- Take all necessary action, including legal action, to protect the rights and welfare of a child.
- Investigate cases involving children who have died as a result of child abuse or neglect when there has been previous agency involvement.
- Make recommendations to the Governor, Legislature and the DHS director to improve the child welfare system.
- Educate the public about child welfare laws and policies.

What issues are not investigated by the OCO?

The OCO has no legal authority to investigate complaints that exclusively involve:

- Friend of the Court issues (custody, parenting time, child support)
- Guardianship
- School problems
- Law enforcement
- Court orders
- Judges

The OCO can provide you with referral

information regarding who may be able to help you.

What should I do before calling the OCO?

Anyone may file a complaint with the OCO. If possible, first, try to resolve your problem by contacting DHS or the child placing agency handling the case. Many times an agency official can explain a specific policy or correct a problem. When you contact the agency, remember to:

- Have all the relevant information. It helps to write down the problem and your questions ahead of time.
- Talk to the right people. If you cannot resolve the problem with the caseworker, ask to speak to the worker's supervisor. If you are still not satisfied, contact the program manager and agency director. Be sure to clearly state what you want the agency to do.
- Keep careful notes and records of who you spoke to, the dates, times and phone numbers and what you were told.
- Carefully read all information that is sent to you since there are often rules and deadlines that must be followed.

How are complaints filed with the OCO?

There are several ways to file a complaint:

- Email the complaint form found on our website at www.michigan.gov/oco.
- Call our toll free number, 1-800-642-4326 to request a complaint form and postage-paid envelope.
- Call our toll free number during business hours, Monday-Friday, 8 a.m.-5 p.m. (you may also leave a message after hours and on the weekends) and provide the following information:
 - Child or children's names and birth dates
 - County DHS office or private agency involved
 - Brief description of the problem
 - Actions you are requesting from the OCO
- Mail a letter that includes the above information and a phone number where you can be reached.

After you have provided the necessary information, the Intake Investigator will call you to gather additional information so that a decision can be made regarding whether to open a case for investigation.

